

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-KC-502
)	
Missouri RSA No.2 Partnership)	NAL/Acct. No.200232560019
d.b.a. Alltel)	
Owner of Antenna Structure #1004380 near)	FRN 0001-8373-27
Ridgeway, Missouri)	
Little Rock, Arkansas)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: July 24, 2002

By the Enforcement Bureau, Kansas City Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Missouri RSA No.2 Partnership d.b.a. Alltel (“Alltel”), owner of antenna structure #1004380, apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.50 of the Commission's Rules (“Rules”).¹ Specifically, we find Missouri RSA No.2 Partnership d.b.a. Alltel apparently liable for failure to clean and repaint their antenna structure to maintain good visibility.

II. BACKGROUND

2. On June 24, 2002, the antenna structure bearing FCC registration number 1004380 and located near Ridgeway, Missouri was inspected by an agent of the Commission's Kansas City Field Office. At the time of inspection, the paint on the structure was severely faded reducing visibility of the structure.

III. DISCUSSION

3. Antenna structure registration #1004380 shows this structure is registered to, and owned by Alltel, and specifies lighting and painting for this structure that includes requirements that the structure be painted with alternating aviation orange and white bands. Section 17.50 of the Rules requires antenna structure owners to clean or repaint the structure as necessary to maintain good visibility. On June 24, 2002, the required paint on Alltel's antenna structure #1004380 was severely faded and no longer the required aviation orange in color. As a result the structure was not clearly visible.

4. Based on the evidence before us, we find Alltel willfully² violated Section 17.50 of the Rules by

¹ 47 C.F.R. § 17.50.

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or

failing to clean and repaint the antenna structure as necessary to maintain good visibility.

5. Pursuant to Section 1.80(b)(4) of the Rules,³ the base forfeiture amount for failure to clean and repaint this structure is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Considering the entire record and applying the factors listed above, this case warrants a forfeiture of \$10,000.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Rules,⁶ Missouri RSA No.2 Partnership d.b.a. Alltel is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.50 of the Rules by failing to clean and repaint their antenna structure to maintain good visibility.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Missouri RSA No.2 Partnership d.b.a. Alltel SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE *NAL*/Acct. No. referenced above.

omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

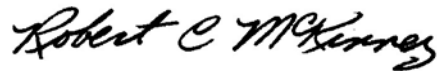
⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁷ See 47 C.F.R. § 1.1914.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Missouri RSA No.2 Partnership d.b.a. Alltel, One Allied Drive, B2F02-A, Little Rock, AR 72202.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Robert C. McKinney". The signature is written in a cursive, flowing style.

Robert C. McKinney
Kansas City Office, Enforcement Bureau